SDNY/NYNY
04-cv-5497
Daniels

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

THOMAS STEINBECK, an individual, and
BLAKE SMYLE, an individual,

Plaintiffs-Appellants,

-against-

MCINTOSH & OTIS, INC., a New York corporation; THE STEINBECK HERITAGE FOUNDATION, a non-profit, New York corporation; EUGENE H. WINICK, an individual; SAMUEL PINKUS, an individual; JEAN ANDERSON BOONE, an individual; FRANCIS ANDERSON ATKINSON, an individual; WAVERLY SCOTT KAFFAGA, an individual and Executor of the Estate of Elaine Anderson Steinbeck; DAVID SCOTT FARBER, an individual; ANDERSON FARBER RUNKLE, an individual; JEBEL KAFFAGA, an individual; BAHAR KAFFAGA, an individual; and STEVEN FRUSHTICK, an individual, and Does 1-10.

Defendants-Appellees.

09-1836-cv

UNITED STATES COURT OF APPEALS
FILED
JUL 27 2009
Catherine O'Hagan Wolfe, Clerk
SECOND CIRCUIT

USDC SDNY
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STIPULATION WITHDRAWING APPEAL FROM ACTIVE CONSIDERATION, WITHOUT PREJUDICE, AND WITH LEAVE TO REACTIVATE

The undersigned counsel for the parties hereby stipulate that the above-captioned appeal is hereby withdrawn from active consideration from the court, such withdrawal to be without prejudice in a reactivation of the appeal by Appellant's counsel so notifying the Clerk of this Court in writing by November 13, 2009. If not reactivated before said date or any extended date as may be further ordered or agreed, the appeal shall be subject to dismissal with prejudice.

Withdrawal of the appeal from active consideration shall not operate as a dismissal of the appeal under FRAP 42(b).

CERTIFIED: JUL 28 2009

HOLLAND & KNIGHT LLP By: ______________ Sean C. Sheely 195 Broadway New York, New York 10007 Tel.: (212) 513-3200 Fax: (212) 385-9010 Attorneys for Plaintiffs-Appellants *Thomas Steinbeck and Blake Smyle*	**DAVIS WRIGHT TREMAINE, LLP** By: ______________ Elizabeth McNamara 1633 Broadway New York, New York 10019 Tel.: (212) 603-6437 Fax: (212) 489-8340 Attorneys for Defendants-Appellees *McIntosh & Otis, Inc., Eugene H. Winick and Samuel Pinkus*

JENNER & BLOCK LLP By: ______________ Susan J. Kohlmann 919 Third Avenue, 37th Floor New York, New York 10022-3908 Tel.: (212) 891-1690 Fax: (212) 909-0821 Attorneys for Defendants-Appellees *Waverly Kaffago, as an individual and as Executrix of the Estate of Elaine Steinbeck, Jean Anderson Boone, Frances Anderson Atkinson, David Scott Farber, Anderson Farber Runkle, Jebel Kaffaga, Bahar Kaffaga, the Steinbeck Heritage Foundation and Steven Frushtick*

SO ORDERED

FOR THE COURT
Catherine O'Hagan Wolfe, Clerk of Court
By ______________
Stanley A. Bass, Staff Counsel

July 27, 2009

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A TRUE COPY
Catherine O'Hagan Wolfe, Clerk
by ______________
DEPUTY CLERK